

Executive Summary – Enforcement Matter – Case No. 49387
City of Lewisville
RN102075298
Docket No. 2014-1418-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Lewisville WWTP, located approximately 2,000 feet southwest of the intersection of the AT & SF Railroad and the Elm Fork of the Trinity River, northeast of Lewisville, Denton County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 17, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$24,375

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$24,375

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 49387
City of Lewisville
RN102075298
Docket No. 2014-1418-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 16, 2014, August 22, 2014, and September 22, 2014

Date(s) of NOE(s): August 25, 2014 and September 15, 2014

Violation Information

1. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010662001, Permit Conditions No. 2.g.].
2. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. WQ0010662001, Permit Conditions No. 2.g.].
3. Failed to comply with permitted effluent limits for chlorine residual [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010662001, Interim Effluent Limitations and Monitoring Requirements No. 2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On February 28, 2014, achieved compliance with the permitted effluent limits by replacing the malfunctioning sulfur dioxide vacuum inductor with a backup and repairing the malfunctioning sulfur dioxide vacuum inductor;
- b. On July 15, 2014, unclogged the sewer main located at 1902 South Business 121, pumped fresh water into the affected area of the stream, and removed and properly disposed of the dead fish; and
- c. On August 21, 2014, plugged the abandoned line located at 898 Sewer Treatment Road with a permanent plug, pumped fresh water into the affected area of the stream, and removed and properly disposed of the dead fish.

Technical Requirements:

N/A

Executive Summary – Enforcement Matter – Case No. 49387
City of Lewisville
RN102075298
Docket No. 2014-1418-MWD-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division,
Enforcement Team 1, MC R-04, (817) 588-5825; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Steven L. Bacchus, Assistant City Manager, City of Lewisville, P.O. Box
299002, Lewisville, Texas 75029
The Honorable Dean Ueckert, Mayor, City of Lewisville, P.O. Box 299002, Lewisville,
Texas 75029
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	15-Sep-2014	Screening	18-Sep-2014	EPA Due	
	PCW	24-Sep-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Lewisville		
Reg. Ent. Ref. No.	RN102075298		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	49387	No. of Violations	2
Docket No.	2014-1418-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	55.0% Enhancement	Subtotals 2, 3, & 7	\$8,250
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Notes: Recommended enhancement for one month of self-reported effluent violations, one order without denial of liability, and for repeat violator classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$3,750
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$2
Estimated Cost of Compliance: \$11,500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$19,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$19,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$19,500
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$19,500
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Screening Date 18-Sep-2014
Respondent City of Lewisville
Case ID No. 49387
Reg. Ent. Reference No. RN102075298
Media [Statute] Water Quality
Enf. Coordinator Heather Brister

Docket No. 2014-1418-MWD-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Recommended enhancement for one month of self-reported effluent violations, one order without denial of liability, and for repeat violator classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 55%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 55%

Screening Date 18-Sep-2014
Respondent City of Lewisville
Case ID No. 49387
Reg. Ent. Reference No. RN102075298
Media [Statute] Water Quality
Enf. Coordinator Heather Brister
Violation Number 1

Docket No. 2014-1418-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (4), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010662001, Permit Conditions No. 2.g

Violation Description Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on July 16, 2014. Specifically, a blockage in the collection system caused approximately 72,000 gallons of wastewater to discharge from a manhole located at 1902 South Business 121. The discharge flowed directly into Timber Creek resulting in a fish kill of approximately 61 fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One daily event is recommended from the date of discharge (July 14, 2014) to the date of compliance (July 15, 2014).

Good Faith Efforts to Comply

25.0%

Reduction

\$1,875

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Repondent achieved compliance on July 15, 2014.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$9,750

This violation Final Assessed Penalty (adjusted for limits) \$9,750

Economic Benefit Worksheet

Respondent City of Lewisville
 Case ID No. 49387
 Reg. Ent. Reference No. RN102075298
 Media Water Quality
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$6,500	14-Jul-2014	15-Jul-2014	0.00	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to unclog the sewer main, pump fresh water into the affected area of the stream, and remove and properly dispose of the dead fish. Date required is the date the discharge occurred and final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,500

TOTAL

\$1

Screening Date 18-Sep-2014

Docket No. 2014-1418-MWD-E

PCW

Respondent City of Lewisville

Policy Revision 4 (April 2014)

Case ID No. 49387

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102075298

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (4), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010662001, Permit Conditions No. 2.g

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on August 22, 2014. Specifically, an abandoned sewer line located at 898 Sewer Treatment Plant Road collapsed and discharged approximately 15,000 gallons of wastewater directly into Prairie Creek resulting in a fish kill of approximately eight fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One daily event is recommended from the date of discharge (August 20, 2014) to the date of compliance (August 21, 2014).

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance on August 21, 2014.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$9,750

This violation Final Assessed Penalty (adjusted for limits) \$9,750

Economic Benefit Worksheet

Respondent City of Lewisville
Case ID No. 49387
Reg. Ent. Reference No. RN102075298
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$5,000	20-Aug-2014	21-Aug-2014	0.00	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to permanently plug the abandoned line, pump fresh water into the affected area of the stream, and remove and properly dispose of the dead fish. Date required is the date the discharge occurred and final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$1



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	15-Sep-2014	Screening	18-Sep-2014	EPA Due	
	PCW	24-Sep-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Lewisville
Reg. Ent. Ref. No.	RN102075298
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	49387	No. of Violations	1
Docket No.	2014-1418-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	55.0% Enhancement	Subtotals 2, 3, & 7	\$2,062
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Notes	Recommended enhancement for one month of self-reported effluent violations, one order without denial of liability, and for repeat violator classification.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$937
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$26
Estimated Cost of Compliance	\$6,900

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$4,875
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,875
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$4,875
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Screening Date 18-Sep-2014
Respondent City of Lewisville
Case ID No. 49387
Reg. Ent. Reference No. RN102075298
Media [Statute] Water Quality
Enf. Coordinator Heather Brister

Docket No. 2014-1418-MWD-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Recommended enhancement for one month of self-reported effluent violations, one order without denial of liability, and for repeat violator classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 55%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 55%

Screening Date 18-Sep-2014

Docket No. 2014-1418-MWD-E

PCW

Respondent City of Lewisville

Policy Revision 4 (April 2014)

Case ID No. 49387

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102075298

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010662001, Interim Effluent Limitations and Monitoring Requirements No. 2

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on September 22, 2014. Specifically, the permitted maximum chlorine residual after dechlorinization is less than 0.1 milligrams per Liter ("mg/L"). The Respondent reported a chlorine residual result of 0.26 mg/L for the monitoring period ending January 31, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction

\$937

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance on February 28, 2014.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$4,876

This violation Final Assessed Penalty (adjusted for limits) \$4,876

Economic Benefit Worksheet

Respondent City of Lewisville
Case ID No. 49387
Reg. Ent. Reference No. RN102075298
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$6,900	31-Jan-2014	28-Feb-2014	0.08	\$26	n/a	\$26

Notes for DELAYED costs

Actual cost to repair and replace the malfunctioning sulfur dioxide vacuum inductor. Date required is when the noncompliance began and final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,900

TOTAL

\$26

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PENDING Compliance History Report for CN600535140, RN102075298, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600535140, City of Lewisville

Classification: SATISFACTORY

Rating: 8.15

Regulated Entity: RN102075298, CITY OF LEWISVILLE

Classification: SATISFACTORY

Rating: 40.77

Complexity Points: 6

Repeat Violator: YES

CH Group: 08 - Sewage Treatment Facilities

Location: Located approximately 2,000 feet southwest of the intersection of the AT & SF Railroad and the Elm Fork of the Trinity River, northeast of Lewisville in Denton County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s): WASTEWATER PERMIT WQ0010662001

WASTEWATER EPA ID TX0052892

WASTEWATER AUTHORIZATION R10662001

PRETREATMENT PERMIT WQ0010662001

PRETREATMENT EPA ID TX0052892000

WASTEWATER LICENSING LICENSE WQ0010662001

Compliance History Period: September 01, 2009 to August 31, 2014

Rating Year: 2014

Rating Date: 09/01/2014

Date Compliance History Report Prepared: October 20, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 20, 2009 to October 20, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Heather Brister

Phone: (817) 588-5825

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: **06/04/2010** ADMINORDER 2009-1890-MWD-E (Findings Order-Agreed Order Without Denial)

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov:Permit Conditions 2.g PERMIT

Description: Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. TCEQ staff documented an unauthorized discharge of wastewater that resulted from of a grease blockage in the collection system, causing an overflow from a manhole located at 247 Corporate Drive, within the Colonial Village Apartments complex. On July 21, 2009, approximately 3,750 gallons of wastewater was discharged into an unnamed tributary of Timber Creek killing an estimated 40 fish.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	November 16, 2009	(809428)
Item 2	December 14, 2009	(809429)
Item 3	January 13, 2010	(809430)
Item 4	February 22, 2010	(809421)
Item 5	March 15, 2010	(832570)
Item 6	April 19, 2010	(832571)
Item 7	May 20, 2010	(845202)
Item 8	June 21, 2010	(846798)
Item 9	July 16, 2010	(867483)
Item 10	August 17, 2010	(867484)
Item 11	October 18, 2010	(874494)
Item 12	October 28, 2010	(882075)
Item 13	December 17, 2010	(896889)
Item 14	December 28, 2010	(888544)
Item 15	January 18, 2011	(902837)
Item 16	February 18, 2011	(909686)
Item 17	March 14, 2011	(916902)
Item 18	March 29, 2011	(901658)
Item 19	April 18, 2011	(926757)
Item 20	May 16, 2011	(938619)
Item 21	July 15, 2011	(953249)
Item 22	July 20, 2011	(953250)
Item 23	August 17, 2011	(959887)
Item 24	September 21, 2011	(965928)
Item 25	October 17, 2011	(971970)
Item 26	November 21, 2011	(978135)
Item 27	December 19, 2011	(984906)
Item 28	January 17, 2012	(991194)
Item 29	March 15, 2012	(1004090)
Item 30	April 16, 2012	(1010654)
Item 31	May 17, 2012	(1017032)
Item 32	June 18, 2012	(1024794)
Item 33	July 13, 2012	(1032153)
Item 34	August 20, 2012	(1038580)
Item 35	September 19, 2012	(1047445)
Item 36	October 15, 2012	(1063910)
Item 37	November 15, 2012	(1063911)
Item 38	November 27, 2012	(1042350)
Item 39	December 17, 2012	(1063912)
Item 40	January 15, 2013	(1080260)
Item 41	February 19, 2013	(1080259)
Item 42	March 18, 2013	(1089920)
Item 43	April 19, 2013	(1096315)
Item 44	May 13, 2013	(1107259)
Item 45	June 17, 2013	(1110924)
Item 46	July 15, 2013	(1117795)
Item 47	August 19, 2013	(1125583)
Item 48	September 16, 2013	(1130149)
Item 49	October 16, 2013	(1135902)
Item 50	November 18, 2013	(1141296)
Item 51	December 17, 2013	(1147762)
Item 52	January 21, 2014	(1153815)
Item 53	March 14, 2014	(1167800)

Item 54	April 18, 2014	(1174926)
Item 55	May 20, 2014	(1181126)
Item 56	June 17, 2014	(1188028)
Item 57	July 17, 2014	(1199565)
Item 58	August 22, 2014	(1199566)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	01/31/2014 (1161144)	CN600535140	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LEWISVILLE
RN102075298**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-1418-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Lewisville ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located approximately 2,000 feet southwest of the intersection of the AT & SF Railroad and the Elm Fork of the Trinity River, northeast of Lewisville in Denton County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on July 16, 2014, TCEQ staff documented that a blockage in the collection system caused approximately 72,000 gallons of wastewater to discharge from a manhole located at 1902 South Business 121 on July 14, 2014. The discharge flowed directly into Timber Creek resulting in a fish kill of approximately 61 fish.
4. During an investigation conducted on August 22, 2014, TCEQ staff documented that an abandoned sewer line located at 898 Sewer Treatment Plant Road collapsed and discharged approximately 15,000 gallons of wastewater directly into Prairie Creek on August 20, 2014, resulting in a fish kill of approximately eight fish.
5. During a record review conducted on September 22, 2014, TCEQ staff documented that the permitted maximum chlorine residual after dechlorinization is less than 0.1 milligrams per liter ("mg/L") and the Respondent reported a chlorine residual result of 0.26 mg/L for the monitoring period ending January 31, 2014.
6. The Respondent received notices of the violations on August 29 and September 16, 2014.
7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On February 28, 2014, achieved compliance with the permitted effluent limits by replacing the malfunctioning sulfur dioxide vacuum inductor with a backup and repairing the malfunctioning sulfur dioxide vacuum inductor.
 - b. On July 15, 2014, unclogged the sewer main located at 1902 South Business 121, pumped fresh water into the affected area of the stream, and removed and properly disposed of the dead fish.
 - c. On August 21, 2014, plugged the abandoned line located at 898 Sewer Treatment Road with a permanent plug, pumped fresh water into the affected area of the stream, and removed and properly disposed of the dead fish.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010662001, Permit Conditions No. 2.g.

3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. WQ0010662001, Permit Conditions No. 2.g.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010662001, Interim Effluent Limitations and Monitoring Requirements No. 2.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Twenty-Four Thousand Three Hundred Seventy-Five Dollars (\$24,375) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Twenty-Four Thousand Three Hundred Seventy-Five Dollar (\$24,375) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Four Thousand Three Hundred Seventy-Five Dollars (\$24,375) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: the City of Lewisville, Docket No. 2014-1418-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

6/22/15
Date

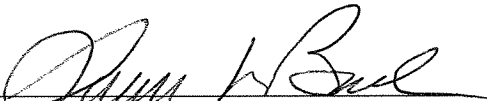
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Lewisville. I am authorized to agree to the attached Agreed Order on behalf of the City of Lewisville, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Lewisville waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

2-20-15
Date

STEVEN L BACCHUS
Name (Printed or typed)
Authorized Representative of
City of Lewisville

ASSISTANT City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.